

United States Department of Agriculture



Natural Resources Conservation Service  
P.O. Box 2890  
Washington, D.C. 20013

CONSERVATION PROGRAMS MANUAL (CPM)  
440-CPM  
Circular No. 12, (Part 512)

December 2, 2009

**SUBJECT:** CPM – Procedures for Requesting Adjusted Gross Income (AGI) Waivers and Environmental Quality Incentives Program (EQIP) Payment Limitation Waivers

**Purpose.** Establish procedures for requesting Adjusted Gross Income (AGI) Waivers and Environmental Quality Incentives Program (EQIP) Payment Limitation Waivers.

**Effective Date.** This circular is effective upon receipt.

**Background.** The Food, Conservation, and Energy Act of 2008 (2008 Farm Bill) established that total financial assistance payments to persons or legal entities are limited to \$300,000 during any six-year period. Projects having special environmental significance can be waived by the Chief up to \$450,000 for the Environmental Quality Incentives Program (EQIP) including Agricultural Water Enhancement Program (AWEP), Chesapeake Bay Watershed Initiative (CBWI), Conservation Innovative Grants (CIG), and the Cooperative Conservation Partnership Initiative (CCPI).

The 2008 Farm Bill also established that a person or legal entity that exceeds the AGI requirements will not be eligible to receive payments in Agricultural Management Assistance (AMA), Agricultural Water Enhancement Program (AWEP), Chesapeake Bay Watershed Initiative (CBWI), Conservation Innovation Grants (CIG), Conservation Stewardship Program (CSP), Environmental Quality Incentives Program (EQIP), Grasslands Reserve Program (GRP), Farm and Ranch Lands Protection Program (FRPP), Wildlife Habitat Incentive Program (WHIP) and, Wetland Reserve Program (WRP) unless waived by the Chief on a case-by-case basis if it is determined that environmentally sensitive land of special significance would be protected.

**Explanation.** To request a waiver, the State Conservationist must complete and submit Attachment A (Farm Bill Program Application Questionnaire/Checklist) and Attachment B (Payment Limitation Waiver Request Worksheet) for payment limitation waiver requests and/or complete and submit Attachment C (AGI Limitation Waiver Request Worksheet) for AGI waiver requests.

Submit the appropriate attachments to the Regional Conservationist (RC) with a copy to Mitch Flanagan at [mitch.flanagan@wdc.usda.gov](mailto:mitch.flanagan@wdc.usda.gov) for each request for approval. The RC will review with the Deputy Chiefs for Programs and Science and Technology when appropriate and forward to the Chief for consideration.

You will be notified of the action taken on the waiver request. If the waiver is approved for a contract that is in ProTracts, it will need to be approved by the appropriate State official in ProTracts. All ProTracts contracts that are granted waivers, regardless of total funding amount will need approval by the Regional Conservationist. All waivers approved in Programs outside of ProTracts will be completed and approved according to existing policies.

Contact. If you have questions, contact Mitch Flanagan, Program Analyst, Regional Conservationists Office, at (202) 690-2190.

/s/ Thomas W. Christensen for

/s/

/s/

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Attachment A – Farm Bill Program Application Questionnaire/Checklist  
Attachment B – Payment Limitation Waiver Request Worksheet  
Attachment C – Adjusted Gross Income Limitation Waiver Request Worksheet

## Farm Bill Program Application Questionnaire/Checklist

*State Conservationists/Directors are to review contract applications that need Regional Conservationist (RC) approval to ensure compliance with technical and programmatic requirements for the Agricultural Management Assistance Program (AMA), Wildlife Habitat Incentives Program (WHIP), Environmental Quality Incentives Program (EQIP), including Agricultural Water Enhancement Program (AWEP), Chesapeake Bay Watershed Initiative (CBWI), Conservation Innovative Grants (CIG) and Cooperative Conservation Partnership Initiative (CCPI).*

*This evaluation form shall be submitted to the RC. It will be used to document each application for concurrence and fund obligation (440-CPM, Part 512, Section 512.46).*

### **Section 1. Application Information**

Applicant's Name: \_\_\_\_\_ Farm Bill Program: \_\_\_\_\_ State: \_\_\_\_\_  
 Application Number: \_\_\_\_\_ Location (County): \_\_\_\_\_  
 NRCS cost: \$ \_\_\_\_\_ Acres in contract: \_\_\_\_\_

### **Section 2. Potential Concerns/Issues**

A. Does the proposed contract address all natural resource concerns on farm unit/tract?

Yes: \_\_\_\_\_ No: \_\_\_\_\_ If no, please explain:

B. Does the proposed contract include any controversial issues (political, social, environmental, etc.) or have potential for interest by a Congressional Member?

Yes: \_\_\_\_\_ No: \_\_\_\_\_ If yes, please describe:

### **Section 3. Additional Plans (plans need developed prior to practice implementation)** (440-CPM, Part 515, Section 515.80, and 440 CPM, Part 521, Section 521.60)

A. Comprehensive Nutrient Management Plan (CNMP) (AMA, EQIP, AWEP, CBWI, CIG, and CCPI)

Does the contract include an animal waste storage, management, or treatment facility? Yes: \_\_\_\_\_ No: \_\_\_\_\_;

If yes, has the CNMP been developed? Yes: \_\_\_\_\_ No: \_\_\_\_\_; If no, please indicate when the CNMP will be in place: (month/year) \_\_\_\_\_

B. Forest Management Plan (EQIP, AWEP, and CBWI)

Does the contract include conservation practices addressing forestland? Yes: \_\_\_\_\_ No: \_\_\_\_\_; If yes, has the forest management plan developed? Yes: \_\_\_\_\_ No: \_\_\_\_\_; If no, please indicate when the forest management plan will be in place: (month/year) \_\_\_\_\_

**Section 4. State Checklist (Check box w/ X or NA)**

- ☐ A. Each contract item number has the field location identified with a tract and field number. In addition all farm numbers and tract numbers are included in the Land Unit Description in the Conservation Plan of Operations.
- ☐ B. Contract items scheduled will not result in a duplicate payment from other contracts or programs (440-CPM, Part 512, Section 512.65 and 440-CPM, Part 515, Section 515.52).
- ☐ C. A financially assisted practice is scheduled to begin within the first 12 months from the date the contract is signed and obligated by NRCS (440-CPM, Part 512, Section 512.40).
- ☐ D. Land has been irrigated 2 out of the last 5 years for contracted conservation practices associated with irrigation (EQIP, EQIP, AWEPP, CBWI, CIG, and CCPI Only) (440-CPM, Part 515, Section 515.52, and 515.81).
- ☐ E. For contracts that include public land, the following apply: (AMA, EQIP, AWEPP, CBWI, CIG, and CCPI Only) (440-CPM, Part 515, Section 515.52 and 440-CPM, Part 521, Section 521.31).
- The land is a working component of the participants agricultural or forestry operation;
  - The participant has control of the land for the term of the contract;
  - The conservation practices to be implemented on the public land are necessary and will contribute to an improvement in the identified resource concern.
  - The participant has provided NRCS with satisfactory evidence and/or written authorization from the landowner(s) to apply the conservation practices.
- ☐ F. Applicant has control of the land for contract period. (440-CPM, Part 515, Section 515.52, 440-CPM, Part 512, Section 512.22).
- ☐ G. WHIP contracts that are treating essential plant or animal habitat require a minimum of 15 years in length and may pay up to 90%, (440-CPM, Part 512, Section 512.33 and 440-CPM, Part 517, Section 517.45).

**Section 5. ITEMS THAT NEED COMPLETED BEFORE A CONTRACT CAN BE APPROVED**

- ☐ A. Application has been approved by the State in ProTracts.
- ☐ B. Applicant signed the contract and appendix (NRCS-CPA-1202 and contract appendix); CPA 1202 and appendix have dates listed in ProTracts.
- ☐ C. Applicant (and all entities) eligibility verified in ProTracts. Eligibility complete for applicant and all associated members including HEL Determination, AD-1026, AGI determination, and etc. according to eligibility matrices (440-CPM, Part 512, Section 512.20-20-23, 512.98).
- ☐ D. The contract is for a minimum of one year after completion of the last practice. (440-CPM, Part 512, Section 512.45).

**Section 6. Certifications**

**State Conservationist**

I have completed a review of this application and certify that the contract is in full compliance with NRCS technical, programmatic, and administrative requirements.

State Conservationist/Director: \_\_\_\_\_ Date: \_\_\_\_\_

**Regional Conservationist**

Based upon my review of the above documentation and the certification by the State Conservationist/Director, I approve this contract.

Staff Review: Initial \_\_\_\_\_ Date \_\_\_\_\_

Regional Conservationist: \_\_\_\_\_ Date: \_\_\_\_\_

**Payment Limitation Waiver Request Worksheet  
Natural Resources Conservation Service (NRCS)  
Environmental Quality Incentives Program (EQIP)  
(FY 2010)**

Financial assistance payments through EQIP to persons or legal entities are limited to \$300,000 during any six-year period. Applicants with **projects having special environmental significance** can have this limit waived to raise the limitation to not more \$450,000 by the NRCS Chief for EQIP contracts that include the Agricultural Water Enhancement Program (AWEP), Chesapeake Bay Watershed Initiative (CBWI), Conservation Innovative Grants (CIG), and Conservation Cooperative Partnership Initiative (CCPI). **Projects** considered as having "special environmental significance" will have substantial positive impacts on critical resources on or near the project area. Determinations of projects having special environmental significance will be based on the information submitted through this request.

Applicants will need to prepare a written request for a payment limitation waiver addressed to the Chief. State Conservationists will complete an initial review to ensure that the waiver request is of the highest quality and that the waiver request is justified.

State Conservationist will forward a complete waiver package through their Regional Conservationist to the Chief. State Conservationists shall provide written notification to all applicants of the Chief's decision with appropriate appeal rights or acknowledgement of the waiver.

Applicant's Name: \_\_\_\_\_ State: \_\_\_\_\_ County: \_\_\_\_\_

Program Application Number \_\_\_\_\_ NRCS Contract Amount \$ \_\_\_\_\_

Waiver request is for (check one box only): ☐ AWEP ☐ CBWI ☐ CIG ☐ CCPI ☐ EQIP

### Section 1: Special Environmental Significant Project

To be considered a special environmental project, projects must meet the following criteria:  
[Check appropriate block(s)]

- ☐ Methane digester, or
- ☐ Critical to the success of a group or area wide project that involves multiple producers that will result in substantial positive impact on a critical resource in or near the project area, and assists in complying with Federal State, and local regulatory requirements, or
- ☐ Innovative technology that will result in substantial positive impact on a critical resource in or near the project area, and assists in complying with Federal State, and local regulatory requirements.

### Section 2: Federal, State, and Local Regulations

The project assists the participant in complying with Federal, State, Tribal, and local regulatory requirements. (Check all that apply)

- ☐ Federal regulation, Identify: \_\_\_\_\_
- ☐ State regulation, Identify: \_\_\_\_\_
- ☐ Local regulation, Identify: \_\_\_\_\_

Applicant Name \_\_\_\_\_

### Section 3: Critical Resources or Activity for Projects

Projects, when implemented, must have a direct and substantial positive impact on one or more of the following critical resources: (check all that apply and describe each in the description in Section 1):

- ☐ Agricultural viability -Prime and Unique Farmland (Describe): \_\_\_\_\_
- ☐ Air Quality, nonattainment area (Describe): \_\_\_\_\_
- ☐ Climate change and energy (Describe): \_\_\_\_\_
- ☐ Coastal Resources (Coastal zones as identified per the Coastal Zone Management Act of 1972 that have a direct and significant impact on coastal waters, includes coral reef areas)

Name of coastal resource (Describe): \_\_\_\_\_

- ☐ Federal or State listed threatened, endangered, candidate species of concern, or at risk species.

List species: (Describe) \_\_\_\_\_

- ☐ Groundwater recharge or depletion area(s);

Name of recharge or depletion area (s) \_\_\_\_\_

- ☐ Historical or cultural resource; List historical or cultural resource: \_\_\_\_\_

(Submit a letter from State or Tribal Historical Preservation Officer that supports this conservation practice(s)/activity on the subject land).

- ☐ Invasive Species (List): \_\_\_\_\_

- ☐ Pollinators (List): \_\_\_\_\_

- ☐ Water Quality (Describe): \_\_\_\_\_

- ☐ Wetlands (Describe): \_\_\_\_\_

- ☐ Other critical resource issues (Describe): \_\_\_\_\_

### Section 4: Description

Describe the substantial positive and direct outcomes (quantify as much as possible) expected from implementing this project, include in the description the following:

- Description of the project to be implemented and how it is critical to the success of a group or area wide project that involves multiple producers and/or describe the innovative technology that will result in significant environmental improvement as identified in Section 1;
- Include in the description how will the conservation practice(s)/activity will help the applicant comply with the Federal State and local regulatory requirements identified in Section 2; and
- Describe how the conservation practice /activity planned will benefit the critical resource identified in Section 3.

**Description:**

*(Add additional page(s) as needed to clearly describe project and the potential outcomes)*

Applicant Name \_\_\_\_\_

## Section 5: Package Submission Requirements

Include the following in the submission package: (all items required)

- ☐ Completed Payment Limitation Waiver Request Worksheet.
- ☐ Aerial photograph/plan map of project area identifying location of practice(s)/project. Include map of the applicants operation including a map/drawing identifying the area of the group project or area-wide map that this project would be a part (Provide other applicable photographs if needed such as maps showing the location of the critical resources such as rivers, water bodies, wildlife habitat, etc.).
- ☐ Farm Bill Application Questionnaire/Checklist, (contract and appendix does not need to be signed).
- ☐ NRCS-CPA-1155 Conservation Plan or Schedule of Operations.
- ☐ Written request from applicant.

## Section 6: Certification

### State Conservationist

I have completed a review of this payment limitation waiver request and certify that the project is of special environmental significance.

State Conservationist / Director: \_\_\_\_\_ Date: \_\_\_\_\_

Deputy Chief for Science & Technology  
(Innovative Technology request only)

☐ Concur

☐ Do Not Concur

Deputy Chief for Science & Technology: \_\_\_\_\_ Date: \_\_\_\_\_

Deputy Chief for Programs

☐ Concur

☐ Do Not Concur

Deputy Chief for Programs: \_\_\_\_\_ Date: \_\_\_\_\_

Regional Conservationist

☐ Concur

☐ Do Not Concur

Regional Conservationist: \_\_\_\_\_ Date: \_\_\_\_\_

Chief

☐ Approved

☐ Not Approved

Chief: \_\_\_\_\_ Date: \_\_\_\_\_

If Not Approved, Reason(s): \_\_\_\_\_

Note: Waiver determinations to AWEP, CBWI, CCPI, CIG, and EQIP will be based on the year for which the conservation program contract or agreement is approved and the determination will apply for the entire term of the contract.

## Adjusted Gross Income (AGI) Limitation Waiver Request Worksheet NRCS Conservation Programs (FY 2010)

A person or legal entity that exceeds the Adjusted Gross Income (AGI) requirements of the 2008 Farm Bill will not be eligible to receive payments in Farm Bill programs (AMA, AWEF, CBWL, CCPL, CIG, CSP, EQIP, GRP, FRPP, WHIP, and WRP)<sup>1</sup> unless waived by the Chief of the Natural Resources Conservation Service (NRCS) on a case-by-case basis. The determination for approval will be based upon whether the proposed application will protect environmentally sensitive land of special significance.

Applicants will need to prepare a written request for an AGI limitation waiver addressed to the Chief. (Note: Federally recognized Tribes are not subject to AGI limitations). The Designated Conservationist will submit the applicant's written request, along with this completed waiver request worksheet package, through appropriate channels to the State Conservationist (STC). State Conservationists will complete an initial review of the waiver request package to ensure that the request is of the highest quality and that the waiver request is justified.

For those requests that meet all the requirements listed in this worksheet, the STC will forward the complete waiver package through the Regional Conservationist to the Chief for approval. State Conservationists shall provide written notification to all applicants of the Chief's decision with appropriate appeal rights or acknowledgement of the waiver.

### Section 1: Application Program Information and Eligible Categories

(List only one program per waiver request):

Applicant's Name: \_\_\_\_\_ State: \_\_\_\_\_

Location (County): \_\_\_\_\_ Program \_\_\_\_\_ Application No. \_\_\_\_\_

Length of contract/easement \_\_\_\_\_ NRCS Contract Amount \$ \_\_\_\_\_

The waiver request must show that use of conservation program funding by an individual addresses at least one of the following categories.

- ☐ (1) Critical to the success of a project that benefits **multiple producers** in a community, watershed, or other geographic area that will protect environmentally sensitive land of special significance or
- ☐ (2) Enables USDA to achieve enduring conservation treatment through a long-term agreement that is greater than 15 years in duration or through a deed restriction on the environmentally sensitive land of special significance. (Note: Programs with agreements less than 15 years in duration will need to be in partnership with another type of agreement to meet this criterion).

### Section 2: National Priority or Emphasis

The conservation practice(s)/activity to be implemented on the applicant's land must benefit one or more of the national priorities or emphasis areas specific to the applicable program.

List the farm bill program the applicant intends to participate in and identify the national priorities or emphasis (program specific) that will be addressed (List all that applies):

Program	National Program Priority or Emphasis
e.g. EQIP	Reduction of soil erosion, Promotion of at-risk species habitat conservation, etc.



**Section 3: Federal, Regional, Tribal or State Resource Management Plan or Report**

The environmentally sensitive land of special significance is clearly identified in an approved Federal, regional, Tribal, or State environmental or natural resource plan or report. The planned conservation practice(s) or activity will protect or be an integral component in addressing the Federal, regional, Tribal, or State plan's objectives: (check all that apply):

- ☐ State Wildlife Action Plan, Plan/Report Title: \_\_\_\_\_
- ☐ State Water Quality Plan, Plan/Report Title: \_\_\_\_\_
- ☐ National Air Quality Plan, Plan/Report Title: \_\_\_\_\_
- ☐ U.S. Fish and Wildlife Recovery Plan Title: \_\_\_\_\_
- ☐ National Fish Habitat Action Plan Title: \_\_\_\_\_
- ☐ Nationally accepted Agricultural Water Enhancement Program (AWEP, CCPI or CIG) Project Name: \_\_\_\_\_
- ☐ Other Federal, regional, State or Tribal plan, or report, Plan/Report Title: \_\_\_\_\_

**Section 4: Critical Resource**

Projects with conservation "activities" that when implemented, must directly impact one or more of the following critical resources: (check all that apply):

- ☐ Agricultural viability (Prime and Unique Farmland)
- ☐ Air Quality, nonattainment area
- ☐ Climate change and energy
- ☐ Coastal Resources (Coastal zones as identified per the Coastal Zone Management Act of 1972 that have a direct and significant impact on coastal waters, includes coral reef areas)  
Name of coastal resource \_\_\_\_\_
- ☐ Federal or State listed threatened, endangered, candidate species of concern, or at risk species.  
List species: \_\_\_\_\_
- ☐ Groundwater recharge or depletion area(s);  
Name of recharge or depletion area (s) \_\_\_\_\_
- ☐ Historical or cultural resource; List historical or cultural resource: \_\_\_\_\_

(Submit a letter from State or Tribal Historical Preservation Officer that supports the conservation practice(s)/activity on the subject land).

- ☐ Invasive Species (List): \_\_\_\_\_
- ☐ Pollinators (List): \_\_\_\_\_
- ☐ Water Quality (Describe): \_\_\_\_\_
- ☐ Wetlands (Describe): \_\_\_\_\_
- ☐ Other critical resource issues \_\_\_\_\_